

OFFICE OF FOREIGN ASSETS CONTROL

IRAQI SANCTIONS REGULATIONS
(31 C.F.R. PART 575)

GUIDANCE ON PAYMENTS FOR IRAQI-ORIGIN PETROLEUM PURSUANT TO
LICENSED PURCHASES

SUMMARY

- When specifically authorized by the 661 Committee and the Office of Foreign Assets Control ("OFAC"), United States persons are authorized to deal in, and to import into the United States, Iraqi-origin petroleum and petroleum products (See section 575.523 of the Iraqi Sanctions Regulations, 31 C.F.R. Part 575, the "ISR").
- Such authorization does not authorize any transfer of funds or other financial or economic resources to or for the benefit of the Government of Iraq or a person in Iraq except transfers to the 986 Escrow Account.

BACKGROUND

This guidance was developed in response to media reports that the Government of Iraq has attempted to force its oil customers to violate UN Security Council resolutions by demanding that they pay premiums in the form of surcharges, port fees or other payments into an Iraqi controlled account.

GUIDANCE

Following imposition of the economic embargo against Iraq, the Security Council of the United Nations became convinced of the need for equitable distribution of humanitarian relief to all segments of the Iraqi civilian population. United Nations Security Council Resolution 706 (1991) authorized States to permit the import of petroleum and petroleum products originating in Iraq subject to the approval of each purchase of Iraqi petroleum and petroleum products by the Security Council Committee established by Resolution 661 (1990) following notification to the Committee by the State concerned;

and payment of the full amount of each purchase of Iraqi petroleum or petroleum products directly by the purchaser in the State concerned into an escrow account to be established by the United Nations and to be administered by the Secretary-General, exclusively to meet specified purposes. The specified purposes of the resolution were to purchase foodstuffs, medicine and materials and supplies for essential civilians needs, in particular health related materials, and for all feasible and appropriate United Nations monitoring and supervision for the purpose of assuring their equitable distribution to meet humanitarian needs in all regions of Iraq and to all categories of the Iraqi civilian population. This program has commonly been referred to as the "oil-for-food" program.

The ISR provides that specific licenses may be issued on a case-by-case basis to permit United States persons to purchase Iraqi-origin petroleum or petroleum products from the Government of Iraq in accordance with the provisions of UNSC Resolution 986, other relevant Security resolutions, the Memorandum of Understanding, and other guidance issued by the 661 Committee (ISR § 575.523). Although any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized (ISR § 575.418), the ISR does not authorize any transfer of funds or other financial or economic resources to or for the benefit of the government of Iraq or a person in Iraq, except transfers to the 986 Escrow Account (See, e.g., ISR §§ 575.201; 575.203; 575.523(e); 575.526(b)).

On December 15, 2000, the UN Iraqi Sanction Committee agreed to circulate a communication clarifying the position of the Committee regarding Iraq's attempts to impose "surcharges" on those seeking to purchase Iraqi oil. The text of that communication advised buyers of Iraqi oil of the following:

1. The Sanctions Committee has not approved a surcharge of any kind on Iraqi oil.
2. Payments for purchasing Iraqi crude oil cannot be made to a non-UN account.
3. Therefore, buyers of Iraqi oil shall not pay any kind of surcharge to Iraq.

OFAC is aware of media reports that the Iraqi Government is attempting to force its oil customers to violate UN Security Council resolutions by demanding the they pay a premium into an Iraqi controlled account. OFAC is concerned about these reports and is looking into them very closely.

UN Security Council resolutions unequivocally require that fees paid for Iraqi oil be deposited into a UN-controlled escrow account, where the funds can be used in the oil-for-food program to provide for the humanitarian needs of the Iraqi people. Paying a surcharge of any amount to Iraq would violate UN Security Council resolutions and the ISR and deprive the Iraqi people of oil-for-food funds. The UN Sanctions Committee, representing every Security Council member including the U.S., has unanimously rejected this scheme. Iraq's attempted extortion of the international community has already cost the people of Iraq hundreds of millions of dollars in lost oil sales. This money would have gone into the UN-controlled fund for the benefit of the Iraqi people.

U.S. persons who buy Iraqi oil on world markets should know the close attention that is focused, by OFAC in the U.S., and in all other jurisdictions, on the oil industry's dealings with Iraq. We would expect U.S. persons to reject Iraq's latest attempt at intimidation. Any transaction by a U.S. person involving violation of the U.S. economic embargo against Iraq may result in the imposition of criminal and/or civil penalties.

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